

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>8:09CR142-LES-FG3</b>
<b>vs.</b>	)	
	)	<b>ORDER ON MOTION</b>
<b>DAVID W. KOFOED,</b>	)	<b>FOR RECIPROCAL DISCOVERY</b>
	)	
<b>Defendant.</b>	)	

This matter is before the magistrate judge on the plaintiff's Motion for Reciprocal Discovery (Doc. 64). Because trial is set for August 31, 2009 before Senior Judge Lyle E. Strom, the defendant was ordered to respond by noon on Friday, August 21, 2009. The court has not received a response from the defendant.

On May 13, 2009, at the time of arraignment, the court granted the defendant's oral motion for discovery. Pursuant to Fed. R. Civ. P. 16, the court ordered the plaintiff to disclose discovery materials on or before May 20, 2009. (Doc. 9 at ¶ 2). Plaintiff complied with the court's order and supplemented its discovery materials, as required by Fed. R. Crim. P. 16(c).

Rule 16(b)(1)(A), governing disclosures to be made by the defendant, provides:

If a defendant requests disclosure under Rule 16(a)(1)(E) and the government complies, then the defendant must permit the government, upon request, to inspect and to copy or photograph books, papers, documents, data, photographs, tangible objects, buildings or places, or copies or portions of any of these items if:

- (i) the item is within the defendant's possession, custody, or control;  
and
- (ii) the defendant intends to use the item in the defendant's case-in-chief at trial.

The court finds that the defendant requested disclosure under Rule 16(a)(1)(E), that the government complied, the government has complied with the requirements of Fed. R. Crim. P. 16(c), and that the government's Motion for Reciprocal Discovery should be granted.

**IT IS ORDERED:**

1. The government's Motion for Reciprocal Discovery (Doc. 64) is granted.
2. Pursuant to Fed. R. Crim. P. 16(b), defendant shall permit counsel for the United States to inspect and copy photographs, books, papers, documents, data, tangible items, building or places, or copies, or portions of any of those items, if the item is in the defendant's possession, custody or control, and the defendant intends to use the item in defendant's case-in-chief at trial.
3. The defendant shall comply promptly disclose the existence of additional evidence or material before or during trial, if the evidence or material is subject to disclosure or inspection under Fed. R. Crim. P. 16(c).

Pursuant to NECrimR 57.2(a), a party may appeal this order by filing a "Statement of Appeal of Magistrate Judge's Order" no later than Monday, **August 24, 2009**.

**DATED August 21, 2009.**

**BY THE COURT:**

**s/ F.A. Gossett  
United States Magistrate Judge**